

February 2, 2010

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Via E-Filing

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: STB Finance Docket No. 35239, Allegheny Valley
Railroad Company – Petition for Declaratory Order

Dear Ms. Brown:

In a letter dated January 28, 2010 from Richard R. Wilson, counsel for Allegheny Valley Railroad Company (“AVRR”) in the above-captioned proceeding, Mr. Wilson claimed that “a survey of the disputed easement was submitted as part of the record and is appended as Exhibit E of the [AVRR] Petition for Declaratory Order dated April 16, 2009.” The Buncher Company (“Buncher”) respectfully disagrees with Mr. Wilson’s claim for the reasons stated herein.

Exhibit E of the AVRR Petition, attached to this letter as a convenience, contains a survey of several parcels of land in the Strip District of Pittsburgh, PA bounded by 16th Street, 21st Street, Railroad Street and Smallman Street. The specific parcel of land at issue in this proceeding, transferred from Consolidated Rail Company to Buncher in 1983, is the northerly parcel on Exhibit E.

As set forth in Buncher’s June 2, 2009 Reply to AVRR’s Petition for Declaratory Order (“Buncher Reply”), this approximately 90-foot wide parcel of land once contained three railroad tracks, running generally parallel to each other. See Buncher Reply at 7. Conrail reserved from this conveyance an easement “to continue to operate over and maintain” only one of these tracks. Id. As established in the Buncher Reply, and as stated by Buncher’s counsel during oral argument, this now-extinguished Conrail easement was, at most, only 36 feet wide. See id. at 16-18. Because Exhibit E is a survey of the entirety of the parcel of land at issue in this proceeding that does not separately identify the boundaries of any prior easement rights within this parcel, Buncher does not believe that Exhibit E represents “a survey of the disputed easement.”

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Thank you for this opportunity to clarify our position.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. Denton', with a long horizontal flourish extending to the right.

Peter W. Denton
Attorney for The Buncher Company

cc: Richard R. Wilson, Esq.

Enclosure

(VARIED-NEEDING)

N 42° 19' 20" W

21.55'

N 50° 40' 40" E

N 50° 40' 55" E

(DEED = N 51° 56' 30" E

N 42° 19' 20" W 230.00'

(DEED = N 48° 54' 40" W

230.00')

(DEED = N 52° 00' 00" E 501.0
N 50° 45' 00" E 501.00

N/F THE BUNCHER COMPANY

20TH STREET 40.05'

$$\Delta = 02^{\circ} 47'$$

CHORD = N 49° 23' 10" E

138.18'

739.33

R = 2844.79'

N 47° 59' 40" E

A = 138.20'

AREA = 139,631 SQ. FT. ±

3.21 ACRES ±

818.71'

N 47° 55' 55" E

(DEED = N 49° 11' 00" E)

N/F THE URBAN REDEVELOPMENT AUTHORITY OF PITTSBURGH

1 STORY BRICK WAREHOUSE & OFFICE BUILDING

DEED - N 49° 10' 45" E 612.69'

N 47° 55' 45" E 612.69'

SMALLMAN STREET 60.07'

NOTE: ALL DIMENSIONS SHOWN HEREON ARE CALCULATED USING THE SURVEY
PLANS FOR PENN CENTRAL TRANSPORTATION CO., IN APRIL, 1976
BY THE ENGINEERING AND SURVEY PREPARED BY FRANK LOUIS KLINE
FOR THE URBAN REDEVELOPMENT AUTHORITY OF PITTSBURGH DATED
JANUARY, 1981. NO FIELD VERIFICATION WAS DONE.

ALL BEARINGS ON THIS PLAN REFLECT THE TAIT SURVEY AND ARE
ON CITY OF PITTSBURGH DATA.

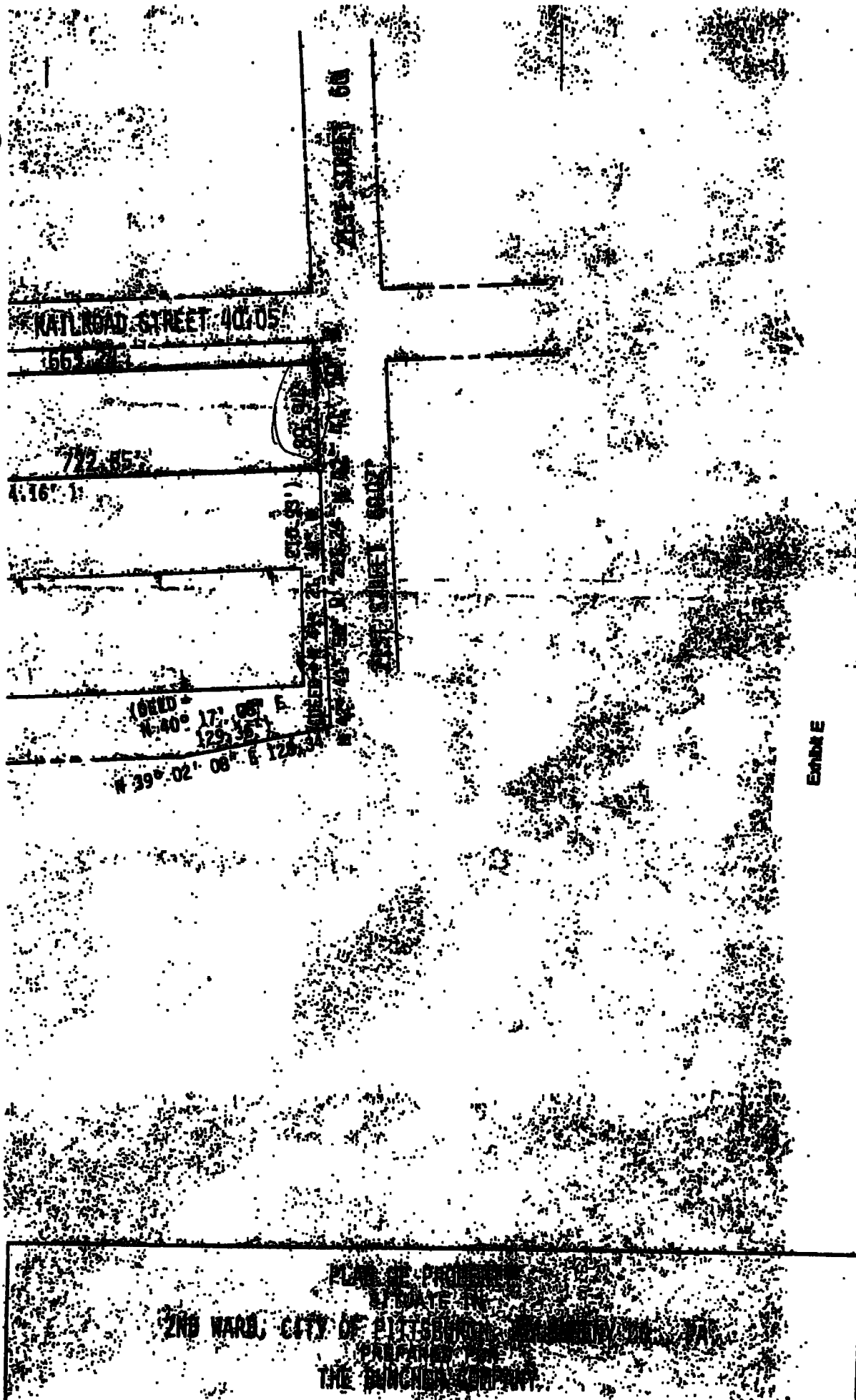


Exhibit E

PLAN OF PROMISE
DATE
2ND WARD, CITY OF PITTSBURGH, PENNSYLVANIA
PREPARED BY
THE ENGINEERING COMPANY